

## ATTACHMENT B

ORDER NO. R5-2006-0054

### TERMS AND CONDITIONS

#### INDIVIDUAL DISCHARGER CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM IRRIGATED LANDS

Attachment B to Order No. R5-2006-0054 contains the terms and conditions of the *Individual Discharger Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands* (Conditional Waiver). The Conditional Waiver conditionally waives waste discharge requirements (WDRs) and reports of waste discharge for discharges of waste from irrigated lands to surface waters within the Central Valley Region. The Conditional Waiver establishes terms and conditions with which Dischargers and/or Water Districts must comply to obtain coverage under and to be considered in compliance with the Conditional Waiver. Order No. R5-2006-0054 defines “discharges of waste from irrigated lands” as including waste in surface discharges, such as irrigation return flows, tailwater, drainage water, subsurface drainage generated by irrigated crop land or by installing and operating drainage systems to lower the water table below irrigated lands (tile drains), stormwater runoff flowing from irrigated lands, stormwater runoff conveyed in channels or canals resulting from the discharge of waste from irrigated lands.

Dischargers shall comply with the following conditions:

##### A. General

1. Dischargers shall comply with all conditions of the Conditional Waiver, including timely submittal of all technical reports specified in **Part B. Technical Reports**. Violations may result in enforcement action under the California Water Code (Water Code), including Central Valley Regional Water Quality Control Board (Central Valley Water Board) orders, or termination of coverage under the Conditional Waiver.
2. The reports submitted to comply with the Conditional Waiver shall be signed by a representative authorized by the Discharger.
3. Any person signing a report submitted as required by the Conditional Waiver shall make the following certification:

*“ I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment for violations.”*
4. Dischargers shall comply with Monitoring and Reporting Program (MRP) Order No. R5-2003-0827, which is required by the Conditional Waiver, or as revised by the Executive Officer.

5. Dischargers shall comply with applicable Total Maximum Daily Loads and implementation plans in the Basin Plans.
6. Dischargers shall implement management practices, as necessary, to achieve best practicable treatment or control of the discharge to reduce wastes in the discharges to the extent feasible and that will achieve compliance with applicable water quality standards, protect the beneficial uses of waters of the state, and prevent nuisance.
7. Dischargers shall not discharge any waste not specifically regulated by the Conditional Waiver, cause new discharges of wastes from irrigated lands that impair surface water quality, or increase discharges of waste or add new wastes that impair surface water quality not previously discharged by the Discharger. Waste specifically regulated by the Conditional Waiver includes earthen materials, such as soil, silt, sand, clay, and rock; inorganic materials, such as metals, salts, boron, selenium, potassium, and nitrogen; and organic materials, such as organic pesticides, that enter or have the potential to enter into waters of the State. Examples of waste not regulated by the Conditional Waiver include hazardous waste and human waste.
8. The Central Valley Water Board staff may investigate the property of persons subject to the Conditional Waiver pursuant to Water Code Section 13267(c) to ascertain whether the purposes of the Porter-Cologne Water Quality Control Act are being met and whether the conditions of the Conditional Waiver are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 Code of Civil Procedure Part 3 (commencing with Section 1822.50). In the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant.
9. Dischargers shall take all reasonable steps to prevent any discharge in violation of the Conditional Waiver.
10. Dischargers shall maintain in good working order and operate as efficiently as possible any facility or control system, including management practices and monitoring devices installed or used to achieve compliance with the Conditional Waiver.
11. The discharge of any waste not specifically regulated by the Conditional Waiver described herein is prohibited unless the Discharger complies with Water Code Section 13260(a) and the Central Valley Water Board either issues WDRs pursuant to Water Code Section 13263 or an individual waiver pursuant to Water Code Section 13269 or the time frames specified in Water Code Section 13264(a) have elapsed.
12. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any action authorized under this Order, the dischargers shall obtain authorization for an incidental take prior to construction or operation of the project. The dischargers shall be responsible for meeting all

requirements of the applicable Endangered Species Act.

## **B. Technical Reports**

1. A Discharger seeking to discharge under the Conditional Waiver shall submit a completed Notice of Intent (NOI). The NOI form is included at the end of this Attachment B.
  - a. The NOI shall contain all the information requested in a format as approved by the Executive Officer.
  - b. The NOI shall identify the representative authorized to sign reports submitted on behalf of the Discharger.
  - c. The NOI shall identify the owner/operator, farm location, and the key contact(s).
  - d. The NOI shall include a description of nearby surface waters as required in the Conditional Waiver and a commitment to satisfy the conditions of the Conditional Waiver.
  - e. The NOI shall provide a detailed map of the farm area. The map(s) shall identify the points where wastes as described in the Conditional Waiver are discharged from irrigated lands to surface waters and are to be covered under the Conditional Waiver.
  - f. The NOI shall identify and discuss the following: crops commonly grown; chemicals (pesticides, fertilizers, etc.) commonly applied in a manner that may result in the material coming in contact with irrigation water or stormwater; management practices utilized to reduce or eliminate the discharges of wastes to surface water which may impair water quality; names of water bodies receiving the discharge(s); details of any subsurface drainage collection system, and other information as requested by the Executive Officer.
2. Upon submittal of a complete NOI and approval of the NOI, the Executive Officer may issue a Notice of Applicability (NOA) to extend coverage to the Discharger under the Conditional Waiver. Those Dischargers who submitted an NOI and received an NOA pursuant to Resolution No. R5-2003-0105 are not required to submit a new NOI, unless so requested by the Executive Officer.
3. Each Discharger that receives an NOA shall submit and implement a Monitoring and Reporting Program (MRP) Plan as specified in MRP Order No. R5-2003-0827, or as revised by the Executive Officer, which is required by the Conditional Waiver. The purposes of the MRP Plan include, but are not limited to, the following: 1) to determine whether the discharge of waste from irrigated lands causes or contributes to exceedances of receiving water limitations or causes nuisance; 2) to provide information about the farm or Water District, including but not limited to, land use, crops grown, and chemicals used; 3) to monitor the effectiveness of management practices implemented to address exceedances of applicable water quality standards in meeting receiving water limitations; 4) to determine which management practices are most effective in reducing wastes discharged to surface waters from irrigated lands; 5) to specify details about monitoring periods, parameters, protocols, and quality assurance; 6) to support the development and implementation of

the Conditional Waiver; 7) to verify the adequacy and effectiveness of the Conditional Waiver's conditions; and 8) to evaluate compliance with terms and conditions of the Conditional Waiver.

4. If a Discharger wishes to terminate coverage under the Conditional Waiver, the Discharger shall submit a complete Notice of Termination (NOT). The NOT form is included at the end of this Attachment B. Termination from coverage will occur on the date specified in the NOT, unless specified otherwise. All discharges shall cease before the date of termination, and any discharges on or after this date shall be considered in violation of the Conditional Waiver, unless other Waivers of WDRs, General WDRs, or individual WDRs cover the discharge.
5. Upon a determination by the Discharger that a discharge is causing or contributing to an exceedance of an applicable water quality standard in the Basin Plans, the Discharger shall promptly notify the Central Valley Water Board in writing. Based on this information or other information available to the Central Valley Water Board, the Discharger shall, upon written notice by the Central Valley Water Board Executive Officer, submit a technical report called a Management Plan to the Central Valley Water Board as follows:
  - a. The Management Plan shall evaluate the effectiveness of existing management practices in achieving applicable water quality standards, identify additional actions, including different or additional management practices that the Discharger proposes to implement to achieve applicable water quality standards; and identify how the effectiveness of those additional actions will be evaluated.
  - b. The Management Plan shall include a waste specific monitoring plan and a schedule to implement additional management practices to achieve applicable water quality standards.
  - c. The Discharger shall submit any modifications to the Management Plan required by the Central Valley Water Board and address the Central Valley Water Board's comments within 30 days of written notification unless otherwise directed by the Executive Officer.
  - d. The Discharger shall make the Management Plan available to the public upon written request. The Central Valley Water Board may provide the public an opportunity to review and comment on submitted Management Plans.
  - e. The Management Plan may be incorporated into the MRP Plan, unless the Central Valley Water Board Executive Officer directs an earlier submittal.
6. All reports submitted pursuant to the Conditional Waiver shall be available for public inspection at the Central Valley Water Board offices, except for reports, or portions of such reports, subject to an exemption from public disclosure in accordance with California law and regulations, including trade secrets and secret processes under Water Code Section 13267(b)(2), and the Public Records Act. NOIs shall generally not be considered confidential. If the Discharger asserts that all or a portion of a report is subject to an exemption from public disclosure, the Discharger must clearly indicate on the cover of the Report that the Discharger asserts that all or a portion of the report is exempt from public disclosure, submit a complete report with those portions that are asserted to be exempt in redacted form, submit separately-bound unredacted pages (to be maintained separately

by staff), and provide an explanation of how those portions of the reports are exempt from public disclosure. The Central Valley Water Board staff shall determine whether any such report or portion of a report qualifies for an exemption from public disclosure. If the Central Valley Water Board staff disagrees with the asserted exemption from public disclosure, the Central Valley Water Board staff shall notify the Discharger prior to making such report or portions of such report available for public inspection.

7. All technical reports submitted pursuant to the Conditional Waiver are required pursuant to Water Code Section 13267. Failure to submit technical reports in accordance with schedules established by the Conditional Waiver and/or the attachments, or failure to submit a complete technical report (i.e., of sufficient technical quality to be acceptable to the Executive Officer), may subject the Discharger to enforcement action pursuant to Water Code Section 13268.

### **C. Water Quality Standards**

1. Dischargers must comply with applicable water quality standards, as defined in Attachment A. The specific waste constituents to be monitored and the applicable water quality objectives that protect identified beneficial uses for the receiving water will be set forth in the MRP. Dischargers shall not cause or contribute to an exceedance of any applicable water quality standard.
2. Dischargers shall comply implement management practices to achieve best practicable treatment or control of the discharge that will reduce wastes in the discharges to the extent feasible and that will achieve compliance with applicable water quality standards, protect the beneficial uses of waters of the State, and prevent nuisance.

### **D. Time Schedule**

Pursuant to Water Code Section 13267, the following technical reports are required to be submitted to the Central Valley Water Board, as directed by the Executive Officer, as a condition of the Conditional Waiver.

#### **Task**

#### **Compliance Date**

MRP Plan

**30-150 days after filing of NOI**

Revised MRP Plan following revision of MRP

**As directed by the Executive Officer**

Wet Season Monitoring Report as required by the MRP  
Order No. R5-2003-0827

**30 June of each year\***

Irrigation Season Monitoring Report as required by the MRP  
Order No. R5-2003-0827

**31 December of each year\***

Management Plan

**As required by the Executive Officer**

\*Or as otherwise directed by the Executive Officer

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WASTE DISCHARGE REQUIREMENTS  
FOR DISCHARGES FROM IRRIGATED LANDS

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**E. Fees**

Individual Dischargers shall pay a fee to the State Water Resources Control Board in compliance with the fee schedule contained in Title 23 California Code of Regulations.

**NOTICE OF INTENT**

**TO COMPLY WITH  
ORDER NO. R5-2006-0054  
INDIVIDUAL DISCHARGER CONDITIONAL WAIVER OF  
WASTE DISCHARGE REQUIREMENTS  
FOR  
DISCHARGES FROM IRRIGATED LANDS**

**1. TYPE OF DISCHARGE**

<input type="checkbox"/> Farm > 200 acres	<input type="checkbox"/> Nursery > 10 acres
<input type="checkbox"/> Farm ≤ 200 acres	<input type="checkbox"/> Nursery ≤ 10 acres
<input type="checkbox"/> Organic Farm > 500 acres	<input type="checkbox"/> Farm that discharge only stormwater
<input type="checkbox"/> Organic Farm ≤ 500 acres	<input type="checkbox"/> District which have operational spills and/or other discharges to surface water
<input type="checkbox"/> Managed Wetlands	<input type="checkbox"/> Other:

**2. REASON(S) FOR FILING**

<input type="checkbox"/> New Discharge or Farm/Facility	<input type="checkbox"/> Changes in Ownership/Operator
<input type="checkbox"/> Existing Farm/Facility	
<input type="checkbox"/> Expansion	<input type="checkbox"/> Other:

**3. FACILITY INFORMATION**

Type of Irrigated Land	<input type="checkbox"/> Managed Wetland
<input type="checkbox"/> Row Crops	<input type="checkbox"/> Nursery
<input type="checkbox"/> Orchard	<input type="checkbox"/> Other (please describe):
<input type="checkbox"/> Irrigated Pasture	
Acreage of Irrigated Lands:	
Source Water Supply:	Estimated Water Usage:
	Average: _____ Maximum: _____
Other Information:	

#### 4. ADDITIONAL INFORMATION

Please attach the following information to this NOI:

1. A site map, which shows the boundaries of the individual Discharger's farm/facility and identifies surface watercourses within 1,000 feet of the farm.
2. Use the space below, or attach additional sheets, to explain any response that needs clarification.


#### 5. CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**NOTICE OF TERMINATION**  
  
**TO COMPLY WITH**  
**ORDER NO. R5-2006-0054**  
**INDIVIDUAL DISCHARGER CONDITIONAL WAIVER OF**  
**WASTE DISCHARGE REQUIREMENTS**  
**FOR DISCHARGES FROM IRRIGATED LANDS**

This document is only to be used for Individual Dischargers that have been issued a Notice of Applicability (NOA) by the Executive Officer. Submission of this Notice of Termination constitutes official notification to the Central Valley Water Board that the Individual Discharger identified below elects not be covered under Order No. R5-2006-0054, Individual Discharger Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands.

**1. INDIVIDUAL DISCHARGER INFORMATION**

Discharger Name:				
Facility Name: <sup>2</sup>				
Physical Address:				
City/Locale:	County:	State:	Zip:	
Mailing Address:				
City/Locale:	County:	State:	Zip:	Telephone Number:

<sup>2</sup> Facilities include lands where water is applied for the purpose of producing crops and includes commercial nurseries, nursery stock production, managed wetlands and rice production.

**2. LOCATION OF FACILITY**

Assessor's Parcel #:	Closest Surface Water: (e.g. Sacramento River)
Township/Range/Section:	
T ____ R ____ S ____ B&M	

**3. CERTIFICATION**

<p>I certify under penalty of law that (1) I am not required to be covered under the Conditional Waiver of Waste Discharge Requirements For Discharges From Irrigated Lands Within The Central Valley Region, and (2) this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. I also understand that submittal of this Notice of Termination does not release a facility from liability for any violations of the Conditional Waiver.</p>	
<p>Print Name: _____ Title: _____</p>	
<p>Signature: _____ Date: _____</p>	

## **Section 2200.6. Annual Waiver Fee Schedules**

(a) Any person for whom waste discharge requirements have been waived pursuant to section 13269 of the Water Code shall submit an annual fee to the State Board if a fee is specified for the waiver in this section.

No Ambient Water Monitoring surcharge shall apply to annual fees for waivers as specified in this section.

(b) Annual fees for waivers for discharges from agricultural land adopted by the Regional Water Quality Control Boards for the Central Coast, Central Valley, or Los Angeles Regions shall be \$100 per farm plus \$0.30 per acre of land.<sup>1</sup> If a discharger is a member of a group that has been approved by the State Board to manage fee collection and payment, then the fee shall be \$100 per group plus \$0.12 per acre of land. If a discharger is a member of a group that has been approved by the State Board but that does not manage fee collection and payment, then the fee shall be \$100 per farm plus \$0.20 per acre of land.

(c) For purposes of this section, the word “farm” and the word “discharger” refer to any person who is subject to Order No. R3-2004-0117 issued by the Central Coast Regional Water Quality Control Board, Order No. R4-2005-0080 issued by the Los Angeles Regional Water Quality Control Board, or Order No. R5-2006-0053 and Order No. R5-2006-0054 issued by the Central Valley Regional Water Quality Control Board.

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<sup>1</sup> As used in this section, the acreage on which the fee is based refers to the area that has been irrigated by the farmer or discharger at any time in the previous five years.